

State of Wisconsin



GARY R. GEORGE
SENATOR

MEMORANDUM

TO: Members, Senate Committee on Judiciary and Consumer Affairs

FROM: Senator Gary R. George, Chair
Senate Committee on Judiciary and Consumer Affairs

DATE: May 21, 1999

RE: Clearinghouse Rule 99-074, relating to certification criteria.

On May 20, 1999, the above-listed proposed rule was referred to the Senate Committee on Judiciary and Consumer Affairs. This memo serves as a written notice of the referral.

Clearinghouse Rule 99-074, relating to certification criteria, is being promulgated by the State Public Defender.

The committee has 30 days from the date of referral within which to review each rule. This review period may be extended by certain actions of the committee. Please contact our office if you have any questions or wish to discuss these proposed rules.

PROPOSED ORDER OF THE STATE PUBLIC DEFENDER BOARD CREATING A RULE

The Wisconsin state public defender board proposes an order to create PD 1.04 (10), relating to certification criteria.

Analysis By Agency:

The Office of the State Public Defender (SPD) is authorized by s. 977.05 (5)(e), Stats., to sponsor conferences and training. The use of the word "sponsor" indicates a commitment of agency resources. In addition, s. 977.05 (5)(e), Stats., contemplates that the agency might obtain revenue from such conferences and training by authorizing the SPD to charge tuition for attendance at such programs. Any revenue received must be deposited in s. 20.550 (1)(i), Stats.

Chapter PD 1, Wis. Admin. Code, expands upon the SPD's training function as it relates to private attorneys who seek public defender certification. For instance, pursuant PD 1.04 (2m), an attorney must complete a certain number of credits of "state public defender provided legal education" in order to be certified for specific types of cases, such as chapter 51 or 55 cases and termination of parental rights cases. Further, pursuant to PD 1.04 (9), an attorney must complete 6 hours of SPD approved continuing legal education each calendar year in order to remain certified to accept public defender cases. Finally, in order to be certified to accept appellate cases under PD 1.04 (5), an attorney must complete a certain number of credits of state public defender approved education prior to applying for appellate certification.

The proposed rule will ensure that the legal education and training required for public defender certification is offered to private attorneys by the agency. The proposed rule also defines "sponsor" and "tuition" as those terms are used in s. 977.05 (5)(e), Stats.

Promoting conferences and training programs for staff and private attorneys as well as recouping some of the costs associated with conferences and training sponsorship is consistent with the agency's mission and statutory authorization.

Statutory authority: s. 977.02 (5), Stats.

Statute interpreted: s. 977.05 (5)(e), Stats.

SECTION 1. PD 1.04 (10) is created to read:

PD 1.04 (10) The state public defender shall offer training for private attorneys seeking certification under this chapter. As used in s. 977.05 (5)(e), Stats., "sponsor" means to use state public defender resources to produce and promote state public defender conferences and training programs. As used in s. 977.05 (5)(e), Stats., "tuition" means all revenue realized from state public defender conferences and training programs and materials.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated: 5/12/99

Wisconsin State Public Defender Board

By: Daniel M. Berkos
DANIEL M. BERKOS, Chair